MINTZ LEVIN

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August 14, 2017

Steven A. Broeckaert Senior Deputy Chief, Policy Division Media Bureau Federal Communications Commission 445 12th Street, SW Washington DC, 20554

Re: Ellington Broadcasting, WHCQ-LD v Cable One Inc. (MB Docket 17-96), Memorandum Opinion and Order, DA 17-710 (rel. July 24, 2017).

Ellington Broadcasting, WPRQ-LD v Cable One Inc. (MB Docket 17-58), Memorandum Opinion and Order, DA 17-711 (rel. July 24, 2017).

Dear Mr. Broeckaert:

In accordance with the instructions provided in above-captioned orders, Cable One Inc. ("Cable One") has timely completed separate signal tests of WPRQ-LD (Clarksdale, MS) and WHCQ-LD (Cleveland, MS) at its Cleveland and Clarksdale systems' principal headends. On the morning of August 9, 2017, Cable One technicians tested the signal strength of low power station WPRQ-LD at the Cleveland system principal headend. Later that afternoon and evening, Cable One technicians tested the signal strength of low power station WHCQ-LD at the Clarksdale system principal headend. David and Chad Ellington, representatives from Ellington Broadcasting, the licensee of the stations, were invited and in attendance at both tests. The results of those tests are as follows.

At both locations, third party contractor Millerco Tower Inc. installed a new, commercial grade Wade Antenna Model WL7-13/S VHF High Band Log Periodic 79004502 antenna on the headend tower at 180 feet, a height similar to which other broadcast station signals are received by the systems. Millerco employees oriented the antennas directly towards the respective stations' broadcast locations, and peaked the antenna for optimum receive levels. A recently calibrated Trilithic model 860DSPI signal meter was used to measure the stations' signals. The weather was clear for both tests.

The results of the Cleveland headend test of WPRQ-LD indicate an unacceptable average signal level of -61.90 dBm at the input terminals of the signal processing equipment used to

¹ This height was also chosen because it well exceeded generally accepted good engineering practices for antenna height at 100 feet of height for every 25 miles of distance from the transmitter. Cleveland and Clarksdale are approximately 35 miles apart from one another.

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measure such signals.² Under Commission signal testing standards, a "good quality signal" for a digital television broadcast station is a measurement of at least -61 dBm.³ As WPRQ-LD fails to deliver a good quality signal to the Cleveland headend, it is confirmed that the station is not a "qualified low power station" entitled to carriage.⁴

We note that even if WPRQ-LD were to meet the "qualified low power station" test by delivering a good quality signal to the Cleveland headend, Cable One would still not be required to carry the station as the system's statutory quota for low power station carriage is already filled. Pursuant to Section 614(c)(1)(B) of the Communications Act, the cable system is only required to carry two low power stations.⁵ The Cleveland system channel lineup attached as Exhibit B demonstrates that the system already carries two low power stations WNBD-LD and WHCQ-LD, and therefore carriage of WPRQ-LD, a third low power station, is not required.

The results of the Clarksdale headend test of WHCQ-LD's signal on the other hand indicate an acceptable average signal level of -54.83 dBm. Accordingly, Cable One's Clarksdale system will initiate carriage of WHCQ-LD on or before September 22, 2017. Such carriage will however depend upon Ellington Broadcasting first agreeing to indemnify Cable One for any increased compulsory copyright costs due to carriage of WHCQ-LD on the Clarksdale system as a "distant signal." Such a requirement, which is expressly authorized by Section 614(b)(10)(B) of the Communications Act, is necessary because while WHCQ-LD may ostensibly be considered a "qualified low power station" under Section 76.55(d) of the Commission's rules, it is a "distant signal" for purposes of Section 111 of the Copyright Act with

² See Cleveland signal test results attached as Exhibit A. During the test, the Ellington representatives requested testing via quad array antennas, a couple of which are installed on the Cleveland headend tower. However, as was explained during the testing, the quad array antennas on the towers are not currently in use, and indeed have not been in use or even maintained for almost a decade. As such, there is no basis for any claim that Cable One is required to test the WPRQ-LD signal using a quad array antenna in order to afford the station similar treatment to other broadcast stations carried by the system.

³ See 47 C.F.R. § 76.55(d)(pp); see also In re Cable Television Technical and Operational Requirements, MB 12-217, Notice of Proposed Rulemaking, 27 FCC Rcd 9678, 9700 ¶ 44 (2012).

⁴ 47 U.S.C. § 534(h)(2)(D); 47 C.F.R. § 76.55(d)(4).

⁵ 47 U.S.C. § 534(c)(1)(B).

⁶ See Clarksdale signal test results attached as Exhibit C.

⁷ 47 U.S.C. § 534(b)(10)(B)("[A] cable operator may accept payments from stations which would be considered distant signals under section 111 of title 17 as indemnification for any increased copyright liability resulting from carriage of such signal").

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respect to any community served by the system located more than 35 miles from the station's transmitter. Specifically, WHCQ-LD is "distant" with respect to Batesville, MS, one of the communities served by the Clarksdale system and which is located over 60 miles from the station's transmitter location. Cable One's carriage of the station in Batesville may therefore result in additional distant carriage copyright liability under the cable compulsory license, costs for which Cable One is statutorily entitled to seek reimbursement from Ellington Broadcasting.

Should there be any further questions regarding this matter, please contact the undersigned.

Sincerely,

Craig A. Gilley

Counsel for Cable One Inc.

cc: David Ellington

Ellington Broadcasting
P.O. Box 617

Webb, MS 38966

71171742v.1

⁸ 17 U.S.C. § 111(f)(4) ("In the case of a low power television station, as defined by the rules and regulations of the Federal Communications Commission, the "local service area of a primary transmitter" comprises the designated market area, as defined in section 122(j)(2)(C), that encompasses the community of license of such station and any community that is located outside such designated market area that is either wholly or partially within 35 miles of the transmitter site. . ."). We also note that while WHCQ-LD is located in the Greenwood-Greenville, MS DMA, Batesville is located in the Memphis DMA.

EXHIBIT A

MUST CARRY WORKSHEET

DATE: 8-09-17

CHANNEL #: 12.1

TIME: 4:30 PM

CALL SIGN: WPRQ LD

LOCATION: Cleveland, MS SYSTEM: Cleveland, MS TECH: Eugene Biller FREQ (VID):

207.0000MHz.

TEMP (F): 86

ANTENNA HEIGHT (FT): 180

	TEST 1*	TEST 2*	TEST 3*	TEST 4*	TEST 5*	TEST 6*
1. Time of test (HH:MN / AM / PM)	4:30 PM	8:27 PM	12:26 AM	4:24 AM	8:22 AM	12:20 PM
2. Receive level @ processor (dBmV)	-17.6	-17.1	-15.5	-16.1	-17.2	-17.1
3. Antenna gain (dBi)	+11.5	+11.5 +11.5		+11.5	+11.5	+11.5
4. Cable loss 200ft x 1.81 dBmV/100FT	3.62	3.62	3.62	3.62	3.62	3.62
5. Splitter Loss (dBmV)	0	0	0	0	0	0
6. Receive level @ antenna (line 2+4+5)	-13.98	-13.48	-11.88	-12.48	-13.58	-13.48
7. Conversion to dBm	-48.7506	-48.7506	-48.7506	-48.7506	-48.7506	-48.7506
8. Receive level in dBm (line 6+7)	-62.73	-62.23	-60.63	-61.23	-62.33	-62.23
9. Pass / Fail (circle one): UHF (Pass = -45dBm)						
10. VHF (Pass = -61 dBm)	Fail	Fail	Pass	Fail	Fail	Fail
-						

*NOTE: For UHF stations, if the test results are worse than -51 dBm (i.e., a higher negative number such as -52 dBm), Technician must complete at least four readings during a 2-hour period. If initial test results are between -51 dBm and -45 dBm, inclusive, six readings must be taken during a 24-hour period with measurements not more than 4 hours apart. For VHF stations, if the test results are worse than -55 dBm, Technician must complete at least four readings during a 2-hour period. If initial test results are between -55 dBm and -49 dBm, inclusive, six readings must be taken during a 24-hour period, with measurements not more than 4 hours apart.

- 10. Make & Model of Each Item of Equipment Used (include serial number, year manufactured & last calibration Date (if applicable)): Wade Antenna, Model WL7-13/S VHF High Band Log Periodic, Product 79004502, 7-17, 7-17, Meter info: Make: Trilithic, model: 860DSPI, Serial #254655, Manufacture date 2-2008, Calibration date 8-4-2017
- 11. Characteristics of Equipment Used (e.g., antenna ranges & radiation patterns): VHF High, Antenna mounted on tower. Antenna Range: 174-216MHz, VSWR 1.25:1, Beam width Hor.50deg.Ver. 70 deg., LENGTH 96", Width 33.6 IN. Weight 25 LBS.
- 12. Weather conditions (e.g., clear, cloudy, rain, snow, drizzle, fog): Clear, sunny
- 13. Antenna Orientation: Antenna facing north east towards the stations broadcast tower site at 18.25*
- 14. Description of test: Test ran on a clear day with an antenna height of 180Ft.
- 15. Picture quality: frozen or no picture at all, picture not viewable. MER 17.2, meter would not lock to QAM signal.

Comments: no comments

Broadcaster's Signature / Date (for joint tests)

Eugene Biller, Eugene Biller

Technician Signature / Date

Sketch Attached

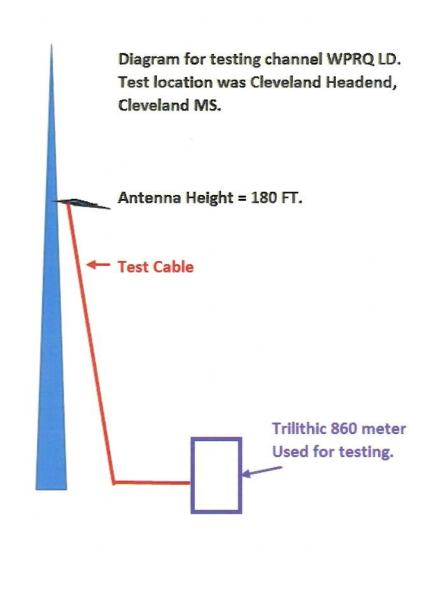
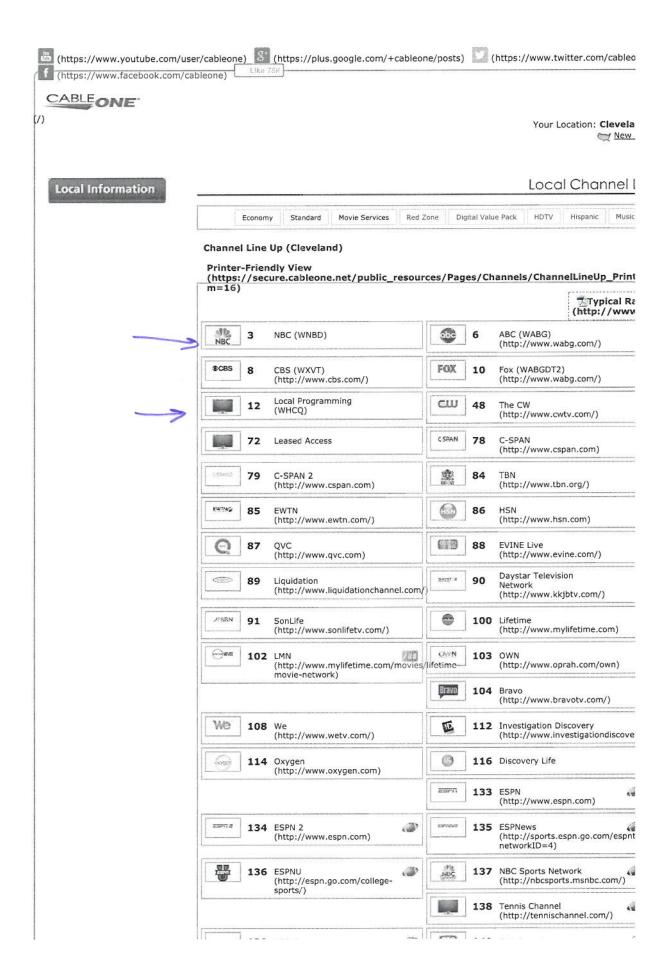


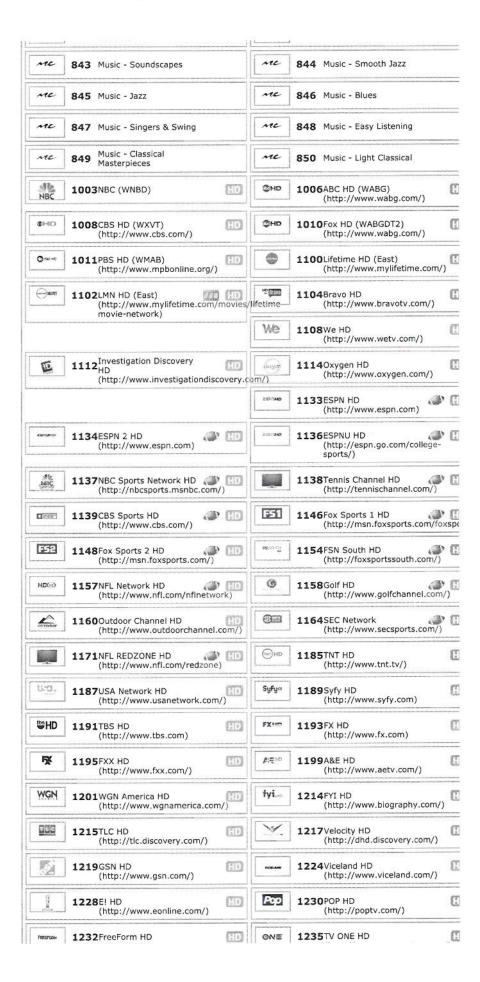
EXHIBIT B

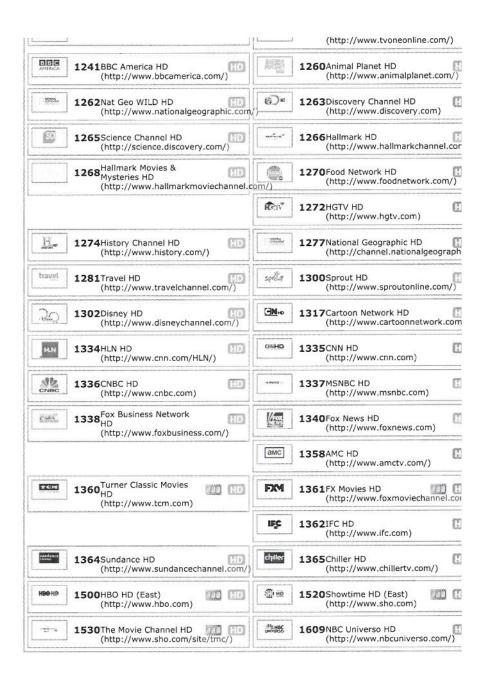


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	164	SEC Network (http://www.secnetwork.com/)		171	NFL REDZONE (http://www.nfl.com/redzone)
	173	SEC Overflow (http://www.secsports.com/)	9	185	TNT (http://www.tnt.tv/)
U.C.	187	USA Network (http://www.usanetwork.com/)	Syfy	189	Syfy (http://www.syfy.com)
tbs	191	TBS (http://www.tbs.com)	FX	193	FX (http://www.fxnetworks.com/)
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WGN	201	WGN America (http://www.wgnamerica.com/)	fyi.	214	FYI (http://www.biography.com/)
	215	TLC (http://tlc.discovery.com/)	AHC	218	American Heroes Channel (http://military.discovery.com/)
g)	219	GSN (http://www.gsn.com/)	VICELAND	224	Viceland (http://www.viceland.com/)
	228	E! (http://www.eonline.com/)	Pop	230	POP SD (http://www.tvguide.com)
FREEFORM	232	FreeForm	ΘΝΞ	235	TV ONE (http://www.tvoneonline.com/)
BBC AMERICA	241	BBC America (http://www.bbcamerica.com/)	AESA	260	Animal Planet (http://animal.discovery.com/)
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	268	Hallmark Movies & Mysteries (http://www.hallmarkmoviechannel.c	om/)	270	Food Network (http://www.foodnetwork.com/)
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DARWING CO.	551	STARZ Encore Action (http://www.starz.com/channels/enc	ore)	601	Telemundo (http://www.telemundo.com)
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me-]	805	Music - HipHop/R&B	MC	806	Music - Rap
me	807	Music - HipHop Classics	me	808	Music - Throwback Jamz
me	809	Music - R&B Classics	me	810	Music - R&B Soul
MC]	811	Music - Gospel	me	812	Music - Reggae
мс	813	Music - Rock	me	814	Music - Metal
мс	815	Music - Alternative	nc	816	Music - Adult Alternative
ме	817	Music - Rock Hits	me	818	Music - Classic Rock
MC	819	Music - Soft Rock	me	820	Music - Love Songs
me	821	Music - Pop Hits	me	822	Music - Party Favorites
MC	823	Music - Teen Beats	MC	824	Music - Kidz Only
ME	825	Music - Toddler Tunes	ME	826	Music - Y2K
mc]	827	Music - 90s	me	828	Music - 80s
me	829	Music - 70s	Me	830	Music - Solid Gold Oldies
MC.	831	Music - Pop & Country	l me	832	Music - Todays Country
MC	833	Music - Country Hits	me	834	Music - Classic Country
~1C.	835	Music - Contemporary Christian	MC	836	Music - Pop Latino
ме	837	Music - Musica Urbana	ME	838	Music - Mexicana
мс	839	Music - Tropicales	мс	840	Music - Romances
MC	841	Music - Sounds of the Seasons	мс	842	Music - Stage & Screen





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EXHIBIT C

MUST CARRY WORKSHEET

FREQ (VID):

TEMP (F): 72

ANTENNA HEIGHT (FT): 180

189.00MHz.

DATE: 8-09-17 CHANNEL #: 9

TIME: 9:58 AM CALL SIGN: WHCQ LD

LOCATION: Clarksdale, MS SYSTEM: Clarksdale, MS TECH: Eugene Biller

	TEST 1*	TEST 2*	TEST 3*	TEST 4*	TES T 5*	TES T 6*
1. Time of test (HH:MN / AM / PM)	9:58AM	10:30AM	11:01AM	11:34AM		
2. Receive level @ processor (dBmV)	-9.5	-9.9	-10	-9.3		
3. Antenna gain (dBi)	+11.5	+11.5	+11.5	+11.5		
4. Cable loss 200ft x 1.81 dBmV/100FT	3.62	3.62	3.62	3.62		
5. Splitter Loss (dBmV)	0	0	0	0		
6. Receive level @ antenna (line 2+4+5)	-5.88	-6.28	-6.38	-5.68		
7. Conversion to dBm	-48.7506	-48.7506	-48.7506	-48.7506		
8. Receive level in dBm (line 6+7)	-54.73	-55.03	-55.13	-54.43		
9. Pass / Fail (circle one):						
UHF (Pass = -45 dBm)						
VHF (Pass = -61 dBm)	Pass	Pass	Pass	Pass		

*NOTE: For UHF stations, if the test results are worse than -51 dBm (i.e., a higher negative number such as -52 dBm), Technician must complete at least four readings during a 2-hour period. If initial test results are between -51 dBm and -45 dBm, inclusive, six readings must be taken during a 24-hour period with measurements not more than 4 hours apart. For VHF stations, if the test results are worse than -55 dBm, Technician must complete at least four readings during a 2-hour period. If initial test results are between -55 dBm and -49 dBm, inclusive, six readings must be taken during a 24-hour period, with measurements not more than 4 hours apart.

- 10. Make & Model of Each Item of Equipment Used (include serial number, year manufactured & last calibration Date (if applicable)): Wade Antenna, Model WL7-13/S VHF High Band Log Periodic, Product 79004502, 7-17, 7-17, Meter info: Make: Trilithic, model: 860DSPI, Serial #254655, Manufacture date 2-2008, Calibration date 8-4-2017
- 11. Characteristics of Equipment Used (e.g., antenna ranges & radiation patterns): VHF High, Antenna mounted on tower. Antenna Range: 174-216MHz, VSWR 1.25:1, Beam width Hor.50deg.Ver. 70 deg., LENGTH 96", Width 33.6 IN. Weight 25 LBS.
- 12. Weather conditions (e.g., clear, cloudy, rain, snow, drizzle, fog): Clear, sunny
- 13. Antenna Orientation: Antenna facing south west towards the stations broadcast tower site at 192.66*
- 14. Description of test: Test ran on a clear day with an antenna height of 180Ft.
- 15. Picture quality: Good.

Comments: no comments

Technician Signature / Date	Broadcaster's Signature / Date (for joint tests)
a S	
Eugene Biller, Eugene Biller	

Sketch Attached

